

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Baxley

Mailed: July 28, 2004

Opposition No. **91159974**

Opposition No. **91160803**

The Kroger Co. of Michigan

v.

Robert Mondavi Winery

(as consolidated)

**Andrew P. Baxley, Interlocutory Attorney:**

On July 19, 2004, applicant filed a consented motion (filed July 16, 2004) to consolidate the above-captioned proceedings and extend applicant's time to file answers in those proceedings.

The motion to consolidate is hereby granted. The Board orders the consolidation of the above-referenced proceedings.<sup>1</sup> The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

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<sup>1</sup> When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. See Fed. R. Civ. P. 42(a); see also, *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

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The Board filed will be maintained in Opposition No. 91159974 as the "parent" case. As a general rule, from this point on only a single copy of any paper or motion should be filed herein; but that copy should bear two proceeding numbers in its caption. However, and because the involved proceedings were consolidated prior to joinder of the issues therein, applicant should file an answer in each opposition before commencing the practice of filing a single copy of any paper in the parent case. Other exceptions to the general rule involve stipulated extensions of the discovery and trial dates, see Trademark Rule 2.121(d), and briefs on the case, see Trademark Rule 2.128.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleading; a copy of the decision shall be placed in each proceeding file.

With regard to applicant's motion to extend time to file answers, the Board notes that the parties are negotiating for possible settlement of this case. Accordingly, proceedings herein are **suspended** until **six months** from the mailing date of this action, subject to the right of either party to request resumption at any time. See Trademark Rule 2.117(c).

In the event that there is no word from either party concerning the progress of their negotiations within the next

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six months, the Board will issue an order resuming proceedings and resetting discovery and trial dates, including applicant's time to file answers in the above-captioned proceedings.

If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.